

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

KRISTINA E. HERBERT,)
)
Plaintiff,)
)
v.) 1:23-cv-00418-LEW
)
)
UNISHIP BANKING,)
)
Defendant)

**RECOMMENDED DECISION AFTER REVIEW
OF PLAINTIFF'S COMPLAINT**

Plaintiff filed a complaint and a motion to proceed without prepayment of fees and costs, which motion the Court granted. (Complaint, ECF No. 1; Motion, ECF No. 2; Order, ECF No. 3.) In accordance with the statute governing matters in which a plaintiff proceeds without the prepayment of fees, a preliminary review of Plaintiff's complaint is appropriate. 28 U.S.C. § 1915(e)(2).

Following a review of Plaintiff's complaint, I recommend the Court dismiss the matter.

DISCUSSION

28 U.S.C. § 1915, is designed to ensure meaningful access to the federal courts for those persons unable to pay the costs of bringing an action. When a party is proceeding pursuant to the statute, however, “the court shall dismiss the case at any time if the court determines,” *inter alia*, that the action is “frivolous or malicious” or “fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B). “Dismissals [under § 1915]

are often made *sua sponte* prior to the issuance of process, so as to spare prospective defendants the inconvenience and expense of answering such complaints.” *Neitzke v. Williams*, 490 U.S. 319, 324 (1989). A complaint fails to state a claim upon which relief can be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

A review of Plaintiff’s complaint fails to reveal sufficient facts to support an actionable claim. Accordingly, dismissal of Plaintiff’s complaint is warranted.

CONCLUSION

Based on the foregoing analysis, after a review of Plaintiff’s complaint pursuant to 28 U.S.C. § 1915, I recommend the Court dismiss the matter.

On April 25, 2022, in *Herbert v. Meghar*, 1:21-cv-00346-LEW, the Court informed Plaintiff that filing restrictions “may be in the offing” if she were to commence further “groundless litigation.” (Order at 1, ECF No. 7) (quoting *Cok v. Family Court of Rhode Island*, 985 F.2d 32, 35 (1st Cir.1993)). Given Plaintiff’s filing in this case, I recommend the Court consider the imposition of filing restrictions on Plaintiff.

NOTICE

A party may file objections to those specified portions of a magistrate judge’s report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days of being served with a copy thereof.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 13th day of November, 2023.